



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 200

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-UFO

JAN 20 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joel Bierman, General Manager
Ramsdells
1929 Highway 14 Bypass
Brookings, SD 57006

RE: Order to Stop the Sale, Use or Removal of
Mosquito Control by Ramsdells

Dear Mr. Bierman:

Please find enclosed an Order from the United States Environmental Protection Agency (EPA) concerning Mosquito Control by Ramsdells. The enclosed Order requires that you stop the sale, distribution or use of the pesticide, Mosquito Control by Ramsdells. This Order shall extend to all quantities of this product wherever located within the ownership, control or custody of Ramsdells. This Order is effective immediately.

Under Section 13 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136 (k) (a), the US EPA has the authority to stop the sale, distribution or removal of any pesticide believed to be in violation of the statute. The term "pesticide" means "any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests..." As explained in the enclosed Order, Mosquito Control by Ramsdells is not a registered pesticide and, therefore, cannot be sold or distributed for that purpose.

If you have questions concerning this Order, you are encouraged to contact Dennis Jaramillo from my staff at 303-312-6203

Sincerely,

Elisabeth Evans

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Brad Berven, South Dakota Department of Agriculture

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

2006 JAN 20 AM 8:22

TO:

Ramsdells
1929 Highway 14 Bypass
Brookings, South Dakota 57006

STOP SALE, USE

OR REMOVAL ORDER

DOCKET NO. FIFRA-08-2006-0002

FILED
EPA REGION VIII
HEARING CLERK

A. INTRODUCTION

1. The United States Environmental Protection Agency (EPA) is authorized under Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), as amended, 7 U.S.C. § 136(k)(a), to issue orders prohibiting the sale, use, or removal of any pesticide whenever there is reason to believe the pesticide is in violation of any provision of FIFRA.
2. The Director of the Technical Enforcement Program has been duly delegated the authority to issue such orders.
3. FIFRA § 12(a)(1)(A), 7 U.S.C. § 136(j)(a)(1)(A), provides that it shall be unlawful for any person in any State to distribute or sell to any person any unregistered pesticide under FIFRA Section 3, 7 U.S.C. § 136(a).
4. Mosquito Control by Ramsdells is not a registered pesticide.
5. EPA hereby orders, Ramsdells to stop the sale, use, or removal of Mosquito Control by Ramsdells.

B. ORDER

6. This Order pertains to all quantities and sizes of Mosquito Control by Ramsdells within the ownership, control, or custody of Ramsdells that are associated with pesticidal claims. The product shall not be sold, used, or removed other than in accordance with the provisions of this Order or any further Stop Sale, Use, or Removal Order that may be issued in connection with Mosquito Control by Ramsdells.
7. Any person violating the terms or provisions of this Order shall be subject to CIVIL or CRIMINAL PENALTIES or both as set forth in FIFRA § 14, 7 U.S.C. § 136(l).

8. This order shall be EFFECTIVE IMMEDIATELY upon receipt by any representative of Ramsdells.

C. BASIS FOR ORDER

9. On December 5, 2005, an inspector from the South Dakota Department of Agriculture conducted an inspection to determine compliance with FIFRA. Subsequent to that inspection, it was determined that Ramsdells is illegally repacking and selling an unregistered/adulterated pesticide by mixing Tempo SC Ultra (EPA Reg No. 432-1363) with water and selling this pesticide product under the name Mosquito Control by Ramsdells.

10. As the seller and distributor of a pesticide, you are in violation of FIFRA § 12(a)(1)(A), 7 U.S.C. § 136(j)(a)(1)(A), which provides in relevant part that it shall be unlawful for any person in any State to distribute or sell to any person any pesticide that is not registered under FIFRA Section 3, 7 U.S.C. § 136(a).

D. OTHER MATTERS

11. This Order specifically exempts the delivery of Mosquito Control by Ramsdells to any authorized agent of the United States Government.

12. For resolution of this Order, you are encouraged to contact:

Dennis Jaramillo
US EPA Region 8 (ENF-UFO)
999 18th Street Suite 200
Denver, CO 80202

13. This Stop, Sale, Use or Removal Order must be supervised by the US EPA Region 8 Technical Enforcement Program unless you are otherwise notified.

1.19.06

Date

Elisabeth Evans

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **STOP, SALE, USE, AND/OR REMOVAL ORDER** in the matter of **RAMSDELLS, DOCKET NO.: FIFRA-08-2006-0002** was filed with the Regional Hearing Clerk on January 20, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 20, 2006, to:

Joel Bierman, General Manager
Ramsdells
1929 Highway 14 Bypass
Brookings, SD 57006

And

Brad Berven
South Dakota Department of Agriculture
Division of Agronomy Services
523 East Capitol
Joe Foss Building
Pierre, SD 57501-3182

January 20, 2006



Tina Artemis
Regional Hearing Clerk



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